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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

In re COUNTRYWIDE FINANCIAL
CORP. MORTGAGE-BACKED
SECURITIES LITIGATION

Case No. 11-ML-02265-MRP
(MANx)

IKB INTERNATIONAL S.A. IN
LIQUIDATION AND IKB DEUTSCHE
INDUSTRIEBANK AG,

Case No. 12-CV-06151-MRP
*(MANx)

Plaintiffs,

**CORRECTED ORDER
GOVERNING THE
TREATMENT OF
CONFIDENTIAL DISCOVERY
MATERIAL**

-against-

BANK OF AMERICA CORPORATION;
BANK OF AMERICA, N.A; NB
HOLDINGS CORPORATION;
COUNTRYWIDE FINANCIAL
CORPORATION; COUNTRYWIDE
SECURITIES CORPORATION;
COUNTRYWIDE HOME LOANS, INC.;
CWABS, INC., and CWMBBS, INC.,

Courtroom: 12
Judge: Mariana R. Pfaelzer

Defendants.

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3 After consideration of the terms of the foregoing Stipulation Regarding
4 Governing of the Treatment of Confidential Discovery Material (“Stipulation”), and
5 good cause appearing therefore,

6 IT IS HEREBY ORDERED that:

7 1. The Order Governing the Treatment of Confidential Discovery
8 Material (the “Order”) shall govern the disclosure and use of Confidential Discovery
9 Material (as defined below) and all other discovery material (as applicable) provided
10 during the course of the above-captioned action (the “Action”), by the Parties to the
11 Action or by nonparties, either voluntarily or as required by requests for discovery
12 made pursuant to the Federal Rules of Civil Procedure, by subpoena, or by order of
13 the Court.

14 2. Nothing in the Order shall apply to documents, information, material,
15 or any portion thereof obtained by any Receiving Person on a non-confidential basis
16 from an unrelated person or entity (“Independently Obtained Documents”), provided
17 that if an Independently Obtained Document duplicates, in whole or in part,
18 documents produced to the Receiving Person and designated as Confidential
19 Discovery Material, and the Independently Obtained Document was obtained
20 directly or indirectly by the unrelated person or entity as a result of discovery from
21 any Producing Person or affiliated person or entity in any litigation or proceeding
22 involving any Party or affiliated person or entity, such Independently Obtained
23 Document, or the duplicative portion thereof, shall be treated by the Receiving
24 Person as Confidential Discovery Material. Nothing in this paragraph shall be
25 deemed to relieve any unrelated person or entity from complying with its obligations
26 under any agreement or court order that is otherwise applicable to that person or
27 entity.

28 3. As used in the Order, “Person” includes any individual, entity, natural

1 person, or any business, legal or governmental entity or association. “Producing
2 Person” refers to any person that produces discovery material. “Receiving Person”
3 refers to any person that receives discovery material subject to the Order.

4 4. The Order designates as “Confidential Discovery Material” documents
5 or discovery responses that may be produced during discovery that are designated as
6 such by a Producing Person because they contain any of the following: confidential,
7 sensitive, or nonpublic financial information and statements; proprietary business
8 information, including business plans and records of internal deliberations and
9 decision-making; policies and procedures not generally published, including those
10 concerning business operations, employee benefits and risk management
11 procedures; surveys concerning customers, competitors and employees; and
12 individual personal information that is protected from disclosure under state, federal
13 or foreign law, including identifying personal private information and personal
14 financial information, about any Party, any employee of any Party, or any nonparty.
15 It is possible that disclosure of this Confidential Discovery Material may cause harm
16 to the Producing Persons and their employees, as well as to nonparties.

17 5. The Order also designates as “Confidential Discovery Material” any
18 document or other discovery material produced in the Action pursuant to an
19 agreement or order requiring the reproduction of such discovery material from other
20 litigations or proceedings (the “Reproduced Discovery Material”) where such
21 Reproduced Discovery Material was marked or designated confidential (or a similar
22 designation) in the litigation or proceeding in which such Reproduced Discovery
23 Material was originally produced.

24 6. Further, this Protective Order permits the designation as “Highly
25 Confidential Discovery Material” or “Confidential – Attorneys and Experts Only” of
26 documents or information produced during discovery that contain sensitive,
27 proprietary, confidential, and personal information which a Producing Person in
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1 good faith believes constitute Confidential Discovery Material but for which
2 “Confidential Discovery Material” status may not provide sufficient protection.
3 Material that is designated “Highly Confidential Discovery Material” or
4 “Confidential – Attorneys and Experts Only” shall be subject to all the protective
5 terms applicable to “Confidential Discovery Material” as well as the more protective
6 measures expressly set forth herein. The limitations set forth under this paragraph
7 shall only be modified by agreement among the Parties and Order of the Court.

8 7. The Order hereby designates as “Confidential – Attorneys and Experts
9 Only” any Reproduced Discovery Material where such Reproduced Discovery
10 Material was marked or designated highly confidential (or a similar designation) in
11 the litigation or proceeding in which such Reproduced Discovery Material was
12 originally produced.

13 8. All documents designated as Confidential Discovery Material shall be
14 so designated, by Bates range, in a letter accompanying their production to a
15 Receiving Person, and/or by stamping the media in which the documents are
16 transmitted, and/or by stamping each page of a document “CONFIDENTIAL,”
17 “CONFIDENTIAL DISCOVERY MATERIAL,” or “CONFIDENTIAL
18 TREATMENT REQUESTED BY [name of the Producing Person].” All documents
19 designated as Highly Confidential Discovery Material or Confidential – Attorneys
20 and Experts Only shall be so designated, by Bates range, in a letter accompanying
21 their production to a Receiving Person, and/or by stamping the media in which the
22 documents are transmitted, and/or by stamping each page of a document “HIGHLY
23 CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS AND EXPERTS EYES
24 ONLY.” Documents may be designated as Confidential Discovery Material at any
25 time. Without limiting the foregoing sentence in any way, a Producing Person may
26 designate a document as Confidential Discovery Material after it was earlier
27 produced without such a designation, and such production, in and of itself, shall not
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1 prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of
2 confidentiality to which the Producing Person would otherwise be entitled. Any
3 documents designated as Confidential Discovery Material prior to entry of this
4 Order shall be treated the same in all respects as documents designated as
5 Confidential Discovery Material after the entry of this Order. This Order also treats
6 as Confidential Discovery Material oral communications designated as confidential
7 either orally (provided that such designation was recorded by a court reporter) or in
8 writing. Materials designated as CONFIDENTIAL pursuant to this Order shall be
9 designated and marked as follows:

10 (a) Documents or TIFF Images: Documents or TIFF
11 images may be designated as Confidential Discovery Material or
12 Highly Confidential Discovery Material by placing the legend
13 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” or an equivalent
14 thereof, on any such document or image. Unless the Parties otherwise
15 agree, such legend shall be placed upon every page of each document
16 or image containing Confidential Discovery Material or Highly
17 Confidential Discovery Material. In lieu of marking the originals of
18 documents, the disclosing party may mark the copies that are produced
19 or exchanged. Notwithstanding the foregoing, Excel documents or any
20 other type of electronically stored information produced in native
21 format (together, “Natively Produced ESI”) containing Confidential
22 Discovery Material or Highly Confidential Discovery Material need not
23 be produced using a means sufficient to ensure that every page of such
24 document, when printed, contains the appropriate mark or stamp.
25 Instead, the disclosing party shall use reasonable means to designate as
26 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” such Natively
27 Produced ESI, including, where applicable and/or practicable, by
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1 (i) producing a TIFF placeholder image corresponding to the Natively
2 Produced ESI that includes the “CONFIDENTIAL” or “HIGHLY
3 CONFIDENTIAL” mark; (ii) including “CONFIDENTIAL” or
4 “HIGHLY CONFIDENTIAL” in the file name of the Natively
5 Produced ESI; or (iii) including “CONFIDENTIAL” or “HIGHLY
6 CONFIDENTIAL” on the label of the media or in the production letter
7 for the Natively Produced ESI.

8 (b) Non-Paper Media: Where Confidential Discovery
9 Material or Highly Confidential Discovery Material is produced in a
10 non-paper medium (e.g., video tape, audio tape, computer disks, etc.)
11 that does not include TIFF images, the appropriate confidentiality
12 notice as described in Paragraph 8(a) above should be placed on the
13 medium, if possible, and its container, if any, so as to give clear notice
14 of the designation. To the extent that any receiving party prints any of
15 the information contained on non-paper media that is designated as
16 containing Confidential Discovery Material or Highly Confidential
17 Discovery Material, such printouts will be marked as described in
18 Paragraph 3(a) above by the receiving party.

19 (c) Physical Exhibits: The confidential or highly
20 confidential status of a physical exhibit shall be indicated by placing a
21 label on said physical exhibit with the appropriate confidentiality notice
22 as described in Paragraph 8(a) above.

23 (d) Written Discovery: In the case of Confidential
24 Discovery Material or Highly Confidential Discovery Material
25 incorporated in answers to interrogatories, responses to requests for
26 admission, or other written discovery, the appropriate confidentiality
27 designation as described in Paragraph 8(a) above shall be placed on the
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1 first page of the document and on each page containing answers or
2 responses that contain Confidential Discovery Material or Highly
3 Confidential Discovery Material .
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5 9. Confidential Discovery Material also includes those portions of any
6 notes, work papers or other work product that contain information from documents
7 designated as Confidential Discovery Material without the need for a separate
8 confidential designation on the notes, work paper, or other work product.

9 10. If discovery material is inspected at the Producing Person's choice of
10 location, all such discovery material shall be presumed at such inspection to have
11 been designated as Confidential Discovery Material by the Producing Person until
12 such time as the Producing Person provides copies to the Party that requested the
13 discovery material. Production of Confidential Discovery Material for inspection
14 and copying shall not constitute a waiver of confidentiality.

15 11. Nonparty Borrower Information Designation. The Parties have agreed
16 to produce or have served or intend to serve document requests, interrogatories or
17 other requests, and/or have issued or intend to issue subpoenas to nonparties for
18 documents and other information, which require production of certain records
19 relating to individual mortgage loans ("loan files") and/or to the servicing of those
20 loans ("servicing records"). The loan files, servicing records, and related documents
21 contain non-public personal information and/or other sensitive personally
22 identifying information pertaining to individual borrowers, and information that
23 constitutes "nonpublic personal information" within the meaning of the Gramm
24 Leach Bliley Act, 15 U.S.C. § 6802, *et seq.* and its implementing regulations,
25 including, but not limited to, any portion of a loan file or other document which
26 includes financial and/or credit information pertaining to individual borrowers
27 (including any credit history, report or score obtained on any such borrowers to
28 determine the individual's eligibility for credit) together with personally identifying

1 information with respect to such borrowers, which may include, but is not limited to,
2 names, addresses, Social Security numbers, telephone numbers, and places or
3 positions of work (“Nonparty Borrower Information”).

4 (a) Any Person (including nonparties) producing materials through
5 discovery may designate loan files, servicing records, or related documents
6 that it discloses during discovery in this matter, including, but not limited to,
7 the Nonparty Borrower Information contained therein, as Confidential
8 Discovery Material because the materials constitute, contain, reveal or
9 evidence “non-public personal information.”

10 (b) Any Person (including nonparties) receiving non-public personal
11 information consisting of, derived from, or related to loan files or servicing
12 records produced in discovery, regardless of whether such material is
13 designated with the appropriate designation, shall use that material solely for
14 the purpose of conducting this Action. Notwithstanding the foregoing,
15 nothing in this Order shall require any Receiving Person to disregard or
16 violate any order, direction, or regulatory requirement of any governmental
17 authority, subject to the provisions set forth in Paragraph 18.

18 (c) In order to expedite production of loan files and servicing
19 records, a Producing Person may, at its sole option, produce materials without
20 a detailed or any review, subject to the “clawback” procedures in this Order
21 (Paragraph 19) or as otherwise agreed to. In doing so, the Producing Person
22 may designate the contents of loan files, servicing records, or related
23 documents that by their nature contain Nonparty Borrower Information with
24 the appropriate designation even if some of the documents in the collection
25 may not, considered individually, qualify for such designation.

26 (d) The Producing Person shall designate Nonparty Borrower
27 Information material as follows:
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1 (i) In the case of information in documentary form, the
2 Producing Person shall designate the documents as Confidential
3 Discovery Material in the manner described above in Paragraph 6,
4 except that bulk productions may be designated as set forth in
5 Paragraph 11(d)(iii).

6 (ii) Nonparty Borrower Information may be used in
7 depositions. The party using such information in a deposition should
8 designate any portion of the deposition testimony discussing such
9 information as CONFIDENTIAL pursuant to the procedure outlined in
10 Paragraph 14.

11 (iii) Any Nonparty Borrower Information produced in a non-
12 paper media (*e.g.*, computer disks or drives) and/or bulk productions in
13 native format or without Bates numbers may be designated as such by
14 affixing the legend CONFIDENTIAL in a prominent place on the
15 exterior of the container in which the information is stored and/or on
16 the first page of a document and/or on the relevant page(s) of the
17 document. In the event a Receiving Person generates any electronic
18 copy, hard copy, transcription, or printout from any such designated
19 non-paper media, that Receiving Person must treat each copy,
20 transcription, or printout as confidential pursuant to the terms of this
21 Order.

22 12. Treatment of Confidential Discovery Material. Confidential Discovery
23 Material shall be subject to the following restrictions:

24 (a) Confidential Discovery Material shall be used solely for the
25 purpose of preparing for, and conducting, the prosecution or defense of the
26 Action,¹ including any appeals thereof, and shall not be used by the Parties or
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28 ¹ Plaintiffs reserve the right to seek agreement or an Order providing that
Confidential Discovery Material produced in this action may also be used in the

1 any other person for any commercial, business, competitive or other purpose.
2 Absent consent from a Producing Person, which shall be given solely in that
3 Producing Person's discretion, no Confidential Discovery Material produced
4 by such Producing Person may be used in connection with any other
5 litigation, matter, or proceeding.

6 (b) Confidential Discovery Material shall not be given, shown, made
7 available or communicated in any way to anyone except those persons
8 specified in subparagraph (c) below to whom it is reasonably necessary that
9 such Confidential Discovery Material be given or shown for the purposes
10 permitted under subparagraph (a) above, and shall not be disclosed by them,
11 subject to the provision at the end of this Paragraph governing further
12 restrictions on dissemination of material designated Confidential – Attorneys
13 and Experts Only.

14 (c) Confidential Discovery Material may be disclosed, for the
15 purposes set forth in subparagraph (a) above, only to a "Qualified Person,"
16 defined as follows:

17 (i) counsel of record for the Parties, and attorneys,
18 paralegal, clerical and other staff employed or retained by such
19 counsel who are assisting in the conduct of the Action;

20 (ii) those officers, directors, and representatives (including
21 legal representatives) of the Parties deemed necessary to aid counsel
22 in the conduct of the Action;

23 (iii) witnesses and prospective witnesses (other than
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25 following actions: *IKB International S.A. in Liquidation v. Bank of America*
26 *Corporation*, No. 12. Civ. 4036 (S.D.N.Y.); *IKB International S.A. in Liquidation v.*
27 *Citigroup Inc.*, No. 653100/2012 (Sup. Ct. N.Y. Cnty.); *IKB Deutsche Industriebank*
28 *AG v. Credit Suisse Securities (USA) LLC*, No. 653122/2011 (Sup. Ct. N.Y. Cnty.);
IKB International S.A. in Liquidation v. Goldman Sachs Group, Inc., No.
653101/2012 (Sup. Ct. N.Y. Cnty.); *IKB International S.A. in Liquidation v.*
JPMorgan Chase & Co., No. 12 Civ. 4617 (S.D.N.Y.); and *IKB International S.A.*
in Liquidation v. Morgan Stanley, No. 653964/2012 (Sup. Ct. N.Y. Cnty.).

1 Parties) at any deposition or hearing in the Action, *provided*,
2 *however*, that the witness shall not retain any documents marked as
3 Confidential Discovery Material;

4 (iv) consultants, experts, and investigators (including their
5 professional staffs) retained by the Parties, or their respective
6 counsel, as they in good faith deem necessary to provide assistance
7 in connection with the conduct of the Action;

8 (v) the Court, court personnel, and jurors, potential jurors or
9 alternate jurors;

10 (vi) court reporters and videographers used in connection
11 with the conduct of the Action;

12 (vii) outside photocopying services, graphic production
13 services, litigation support services, and document hosting vendors
14 retained by the Parties, or their respective counsel, as they in good
15 faith deem necessary to provide assistance in connection with the
16 conduct of the Action;

17 (viii) persons who are or were authors or recipients of the
18 Confidential Discovery Material;

19 (ix) any person carrying on an insurance business that may
20 be liable to satisfy part or all of any judgment which may be entered
21 in the Action or to indemnify or reimburse for payments made to
22 satisfy a judgment;

23 (x) mediators, arbitrators, or discovery masters (and their
24 support staff), if any, assisting in these Action;

25 (xi) any non-party reasonably believed to have originated a
26 loan at issue in the Action or to be in possession, custody, or control
27 of a loan file at issue in the Action, which may receive Nonparty
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1 Borrower Information for that loan for the purpose of locating the
2 loan file; and

3 (xii) any non-party reasonably believed to have conducted
4 due diligence on the securitizations or mortgage loans at issue in the
5 Action or to be in possession, custody, or control of documents
6 related to such due diligence, but such non-party may only receive
7 the specific Nonparty Borrower Information that it represents is
8 necessary for it to locate documents relating to such due diligence.

9 (d) Documents or information designated as Highly Confidential or
10 Confidential – Attorneys and Experts Only shall be disclosed only to
11 attorneys of record and in-house or other retained counsel for the Parties to
12 the Action, the authorized secretarial and legal assistance staff of such
13 attorneys and counsel, photocopying and litigation support services as
14 provided in paragraph 12(c)(vii), witnesses as provided in paragraph
15 12(c)(iii), the Court and Court personnel as provided in Paragraph 12(c)(v),
16 and, subject to Paragraph 12(c)(iv), to consultants, experts, and their staff
17 retained by the Parties or their attorneys for purposes of this Action. No
18 documents or information designated as Highly Confidential or Confidential –
19 Attorneys and Experts Only shall be disclosed to any third party or to any
20 Party of the Action, other than the Producing Person, except by written
21 stipulation of the Parties, by order of the Court, or as otherwise provided
22 herein. Documents or things designated as Highly Confidential or
23 Confidential – Attorneys and Experts Only shall not be retained, filed, or
24 stored on the premises of any Party.

25 (e) Each person described in subparagraph 12(c)(iii), (iv), (ix), (x)
26 and (xi) to whom Confidential Discovery Material is disclosed shall first be
27 advised that such material is being disclosed pursuant and subject to the terms
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1 of the Order and that it may not be disclosed other than pursuant to the terms
2 hereof. Prior to disclosing Confidential Discovery Material to any person
3 described in subparagraph 12(c)(iii), (iv), (ix), (x) and (xi) above, counsel
4 shall cause each such person to execute a certificate in the form annexed
5 hereto as Exhibit A, although no Exhibit A shall be required from persons or
6 entities that receive only such Confidential Discovery Material to which they
7 are reasonably believed to have had prior access. Counsel shall be
8 responsible for retaining executed certificates. Any person receiving
9 Confidential Discovery Material is enjoined from disclosing that information
10 to any other person, except in accordance with this Order.

11 13. Inadvertent Disclosure of Confidential Discovery Material. If any
12 Receiving Person inadvertently discloses Confidential Discovery Material to
13 persons who are not Qualified Persons, counsel for the Receiving Person shall make
14 all reasonable efforts to retrieve the Confidential Discovery Material and to obtain
15 the agreement of persons to whom inadvertent disclosure was made to treat the
16 Confidential Discovery Material in accordance with the terms of the Order. Such
17 disclosure shall also be reported in writing, via overnight delivery service or email,
18 to the Producing Person who produced such inadvertently disclosed Confidential
19 Discovery Material promptly, and in no event later than three business days from the
20 discovery of such disclosure.

21 14. Confidential Discovery Material and Depositions. Information or
22 testimony disclosed at a deposition may be designated as Confidential Discovery
23 Material by the person providing such testimony, by a Party, or by a Producing
24 Person if such person either:

- 25 (a) identifies on the record at the deposition those portions of the
26 testimony that are designated as Confidential Discovery Material; or
27 (b) provides written notification to all Parties within thirty days of
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1 the court reporter's release of the transcript of the deposition as to those
2 portions of the transcript that are designated as Confidential Discovery
3 Material.

4 Except to the extent the Parties otherwise agree, the entire transcript of any
5 deposition shall be treated as Confidential Discovery Material until thirty (30) days
6 after the court reporter's release of the transcript of the deposition. The deposition
7 transcript that contains Confidential Discovery Material designated pursuant to
8 subparagraph (a) above shall be stamped, as set forth in paragraph 8 above, by the
9 court reporter or by counsel. If counsel for any Party believes that a question put to
10 a witness being examined in deposition will disclose Confidential Discovery
11 Material, or that the answer to any question or questions requires such disclosure, or
12 if documents to be used as exhibits during the examination contain such
13 Confidential Discovery Material, such counsel may so notify the examining counsel,
14 and, in that event, that portion of the deposition shall be taken in the presence only
15 of counsel, Parties to the Action, the court reporter, video operator and their
16 assistants. The court reporter shall indicate in the transcript the portion of the
17 transcript that is to be kept confidential, and shall mark the cover page of the
18 transcript accordingly.

19 15. Filing Confidential Discovery Material. In the event that any person
20 discloses Confidential Discovery Material in any pleading, court filing, attachment
21 or exhibit thereto, or other papers filed with the Court prior to trial, the disclosing
22 person shall conditionally file the documents containing Confidential Discovery
23 Material under seal with the Clerk of this Court pursuant to Local Rule 79-5. The
24 Parties understand that designation of materials as Confidential Discovery Material
25 or as Confidential – Attorneys and Experts Only does not automatically entitle the
26 Parties to have such information kept under seal and that any submission of
27 documents under seal should seek to file under seal only those portions of the
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1 documents that contain Confidential Discovery Material, *see, e.g., Kamaka v. City*
2 *& County of Honolulu*, 447 F.3d 1172, 1178-81 (9th Cir. 2006), and should be made
3 to the judicial officer presiding over the proceedings in question. To the extent
4 documents containing Nonparty Borrower Information are to be filed with the Court
5 or used as exhibits in any hearing, unless otherwise ordered by the Court, the filing
6 party must either exclude from the exhibits or redact any Nonparty Borrower
7 Information sufficiently to ensure that nonparty borrower identities, or information
8 from which their identities could be ascertained, is masked and not discernible. This
9 Order does not address the use of Confidential Discovery Material for use at trial.
10 The Parties agree to meet and confer regarding use of Confidential Discovery
11 Material in connection with trial and to raise the issue with the Court at an
12 appropriate time.

13 16. Objections to Confidential Classification. No Party concedes that any
14 discovery material designated by any other person as Confidential Discovery
15 Material under any provision of the Order in fact contains or reflects trade secrets,
16 proprietary or confidential information, or has been properly designated as
17 Confidential Discovery Material, and entering into the Stipulation shall not
18 prejudice the right of a Party to seek, at any time, a determination by the Court of
19 whether any particular document or information should be subject to the terms of
20 the Order. Nor does the availability of Confidential Discovery Material status or
21 Confidential - Attorneys and Experts Only status suggest that all documents or other
22 materials are properly discoverable, and shall not affect any other valid objection to
23 production of documents or other materials.

24 A Receiving Person shall not be obliged to challenge the propriety of a
25 designation of documents or other material as Confidential Discovery Material at
26 the time made or thereafter, and failure to do so shall not preclude a subsequent
27 challenge thereof. If at any time a Receiving Person objects to a designation under
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1 the Order (an “Objecting Party”), the Objecting Party shall notify the Producing
2 Person in writing. The Objecting Party shall identify the information in question
3 and shall specify in reasonable detail the reason or reasons for the objection, and
4 shall otherwise comply with Local Civil Rule 37-1. Within ten (10) calendar days
5 of the receipt of such written notice, the Producing Person and Objecting Party shall
6 meet and confer in an effort to resolve their differences. If the disagreement cannot
7 be resolved, the Objecting Party may apply to the Court within ten (10) calendar
8 days for an order overruling the Producing Person’s designation. The application of
9 the Objecting Party shall comply with Local Civil Rules 37-2 and 37-3, and the
10 Producing Person shall have the burden of demonstrating that the document or
11 material designated as Confidential Discovery Material is deserving of confidential
12 treatment or other protection under the terms of the Order. If the Objecting Party
13 does not make such an application to the Court, the documents or material to which
14 an objection was directed will still be considered Confidential Discovery Material
15 under the Order. While any such application is pending, the documents or material
16 subject to that application will remain Confidential Discovery Material until the
17 Court rules.

18 Notwithstanding any other provision of this Order, no person shall challenge
19 in any way any confidentiality designation placed on Reproduced Discovery
20 Material if such designation was previously challenged and upheld in the matter in
21 which it was originally produced. With respect to Reproduced Discovery Material
22 that is subsequently designated confidential (or highly confidential or any similar
23 designation) in the litigation or proceedings in which such Reproduced Discovery
24 Material was originally produced, the Producing Person shall promptly notify any
25 Receiving Person of such subsequent designation. In such case, within 14 days of
26 such subsequent designation, the Producing Person shall provide the Receiving
27 Person with corrected copies of such Reproduced Discovery Material, bearing the
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1 subsequently designated confidentiality designation. If any person challenges any
2 confidentiality designation placed on Reproduced Discovery Material, the parties
3 should cooperate to accommodate the terms of the protective order or
4 confidentiality stipulation that governed in the litigation or proceeding in which
5 such Reproduced Discovery Material was originally produced, but the Court will
6 ultimately apply this Protective Order to Confidential Discovery Material produced
7 in the Action.

8 17. Breach of Confidentiality. In the event that the Court determines that
9 there is an actual or threatened violation of this Order by a Receiving Person, the
10 Parties agree that the Producing Person would not have an adequate remedy at law
11 and would be entitled to specific performance, and/or injunctive relief, to enforce
12 the terms of the Order, in addition to any other remedy to which the Producing
13 Person may be entitled at law or in equity.

14 18. Legal Process. If any Receiving Person (a) is subpoenaed in another
15 action, (b) is served with a demand in another action to which he, she, or it is a
16 party, or (c) receives a demand or request for documents from a legal or regulatory
17 organization with jurisdiction over it and such subpoena, demand, or request seeks
18 Confidential Discovery Material, the Receiving Person shall (unless prohibited by
19 law or regulation) give written notice, by hand or by e-mail, within the earlier of
20 (i) seven business days of receipt of such subpoena, demand, or request for
21 documents or (ii) no fewer than seven business days before any response to the
22 subpoena, demand, or request is due, to all Parties, and to any nonparty who
23 produced or designated the discovery material as Confidential Discovery Material,
24 and in no event shall produce such requested material prior to providing such notice.
25 Any Party or Producing Person may seek a protective order or other court-ordered
26 relief to prevent the requested production. Should a Party or Producing Person seek
27 a protective order or other court-ordered relief, then the Receiving Person shall not
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1 produce any of the Producing Person's Confidential Discovery Material, until a final
2 decision that is no longer subject to appellate review orders such production,
3 provided that a Party or Producing Person must file any a Notice of Appeal or
4 Motion for permission to Appeal from a lower court order not later than thirty (30)
5 days after Notice of Entry of that order is served. If a Receiving Person is
6 subpoenaed or requested to produce Confidential Discovery Material by a regulatory
7 or self-regulatory agency with jurisdiction over it, through a process which by law,
8 regulation, interpretive letter, regulatory policy, or compulsory process requires the
9 Receiving Person to produce requested materials without objection, without notice
10 to other Parties, or without delay, the Receiving Person shall be permitted to do so
11 notwithstanding any provisions of this Order, including the advance notice
12 provisions, to the contrary.

13 19. Clawback of Protected Produced Documents. Upon notification that a
14 document or other discovery material has been inadvertently produced and/or that a
15 claim of attorney-client privilege, attorney work product, or other applicable
16 privilege or protection will be made with regard to such document or other
17 discovery material, the party receiving such notice shall promptly return or, at the
18 Producing Person's option, destroy any and all copies of such document or other
19 discovery material and shall refrain from reading or reviewing said document or
20 discovery material beyond the extent necessary to identify it as the inadvertently
21 produced material, or from utilizing it in any manner or form including without
22 limitation, use during the course of a deposition, review with witnesses, use by
23 counsel or otherwise to prosecute this or any other action, or any other use,
24 disclosure or review whatsoever. The Receiving Person shall also remove all
25 references to such material from any attorney work product. The inadvertent
26 production of any document or discovery that is subsequently retrieved or destroyed
27 pursuant to this paragraph shall not be deemed to be a waiver of the claim of
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1 privilege or protection asserted in this Action or in any other proceeding, including
2 in Federal or State proceedings. Notwithstanding the foregoing, nothing in this
3 paragraph shall prevent a Receiving Person, after promptly returning or destroying
4 the discovery material, from challenging the Producing Person's designation of the
5 document or discovery as subject to attorney-client privilege, attorney work product,
6 or other applicable privilege or protection or otherwise not subject to production,
7 provided that (a) such challenge complies with Local Rules 37-1 through 37-4,
8 (b) any review by the Court of the materials in question is conducted *in camera*, and
9 (c) the challenge shall not assert as ground or basis that the Producing Person
10 waived any privilege or protection because of the inadvertent disclosure.

11 A Receiving Person may obtain from a Producing Person any privilege log(s)
12 relating to any Reproduced Discovery Material, but only to the extent such privilege
13 log exists, and the Producing Person shall use its best efforts to provide such
14 privilege log(s) to the Receiving Person within 14 calendar days of production of the
15 Reproduced Discovery Material or within 14 calendar days of when a privilege log
16 is provided in the litigation or proceeding in which such Reproduced Discovery
17 Material was originally produced. A Receiving Person may not demand the
18 creation of a privilege log in connection with Reproduced Discovery Material, nor
19 shall any a Producing Person be required to create any such privilege log, and the
20 failure to create or provide one shall not constitute a waiver of any privilege or
21 protection. Any challenges to privilege log(s) relating to any Reproduced Discovery
22 Material or any designation of Reproduced Discovery Material as subject to the
23 attorney-client privilege, attorney work product, or any other privilege or protection,
24 or as otherwise not subject to production shall be consistent with the Court's
25 statements during the May 10, 2013 status conference. With respect to Reproduced
26 Discovery Material that is subsequently designated as privileged or otherwise not
27 subject to production in the litigation or proceedings in which such Reproduced
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1 Discovery Material was originally produced, the Producing Person shall promptly
2 notify any Receiving Person of such subsequent designation, and such Receiving
3 Person shall, within 14 calendar days, destroy all such subsequently designated
4 Reproduced Discovery Material and certify to the Producing Person that it has done
5 so.

6 20. The Order shall be without prejudice to the rights of a Producing
7 Person to seek further limits on disclosure or protections for the confidentiality of
8 any discovery material (whether or not designated as Confidential Discovery
9 Material) in addition to the limits and protections provided herein, including,
10 without limitation, that access to or disclosure of any discovery material be limited
11 solely to counsel for a Party or to other specified persons and without prejudice to
12 the rights of any other person to contest such application.

13 21. Any additional parties that join or are joined in the Action, may have
14 access to materials produced pursuant to this Order only after the party executes and
15 files with the Court a stipulation agreeing to be fully bound by the Order.
16 Nonparties producing discovery materials may gain the benefits of this Order with
17 respect to any discovery materials they produce by designating as
18 “CONFIDENTIAL” the discovery material they produce.

19 22. Final Disposition. Unless otherwise ordered or agreed in writing by the
20 Producing Person, within sixty (60) days after the final termination of the Action in
21 which a Producing Person produced discovery materials pursuant to this Order,
22 including any appeals, each Receiving Person must, at its option, take commercially
23 reasonable efforts to either return all Confidential Discovery Material to the
24 Producing Person, or destroy it. Notwithstanding this provision, counsel for the
25 Parties may retain an archival copy of all pleadings, motion papers, transcripts, legal
26 memoranda, correspondence, or attorney work product, even if such materials
27 contain Confidential Discovery Material. Any such archival copies that contain or
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1 constitute Confidential Discovery Material remain subject to this Order until the
2 Producing Person agrees otherwise in writing or this Court orders otherwise.

3 23. This Order shall survive the termination the Action. No part of the
4 restrictions imposed by this Order may be waived or terminated, except by written
5 stipulation executed by outside counsel of record for each Producing Person or by
6 an Order of the Court.

7 24. The Parties may jointly seek to amend or modify the Stipulation and
8 this Order, subject to Court approval.

9 25. Notwithstanding any provision contained herein, nothing in this Order
10 shall restrict in any way the right of a Party to make use of its own discovery
11 material in any way it deems fit.

12 26. Nothing in this Order shall be deemed a waiver of any of the Parties'
13 rights to oppose any discovery on any grounds or to object on any ground to the
14 admission in evidence at any motion hearing or the trial of this Action of any matter
15 discovered.

16 27. Disclosure of Nonparty Borrower Information. To the extent any
17 federal or state law or other legal authority governing the disclosure or use of
18 Nonparty Borrower Information ("Nonparty Borrower Information Law") permits
19 disclosure of such information pursuant to an order of a court, this Order shall
20 constitute compliance with such requirement. To the extent any Nonparty Borrower
21 Information Law requires a party to obtain a court-ordered subpoena or give notice
22 to or obtain consent, in any form or manner, from any person or entity before
23 disclosure of any Nonparty Borrower Information, the Court finds that, in view of
24 the protections provided for the information disclosed in this Order, the volume of
25 documents to be produced and the ongoing oversight of the Court, there is good
26 cause to excuse such requirement, and the Court hereby **Orders** that the party is
27 exempted from obtaining a court-ordered subpoena or having to notify or obtain
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1 consent from any person or entity prior to the disclosure of Nonparty Borrower
2 Information. To the extent that any Nonparty Borrower Information Law requires
3 that any person or entity be notified prior to disclosure of Nonparty Borrower
4 Information except where such notice is prohibited by court order, the Court hereby
5 **Orders**, in view of the protections provided for the information disclosed in this
6 Order, the volume of documents to be produced and the ongoing oversight of the
7 Court, that the Parties are explicitly prohibited from providing such notice;
8 *provided, however*, that this Order shall not prohibit any party from contacting any
9 person or entity for any other purpose. Any Producing Person may seek additional
10 orders from this Court that it believes may be necessary to comply with any
11 Nonparty Borrower Information Law.

12 IT IS SO ORDERED



14 Dated: October 8, 2013

15 _____
16 Hon. Mariana R. Pfaelzer
17 United States District Judge
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ACKNOWLEDGMENT

I have been informed that on _____, the United States District Court for the Central District of California entered an ORDER GOVERNING THE TREATMENT OF CONFIDENTIAL DISCOVERY MATERIAL in *IKB International S.A. in Liquidation v. Bank of America Corporation*, No. 12-CV-6151 (C.D. Cal.) (the “Order”). I have read the Order, agree to abide by the terms of the Order as they apply to me, and voluntarily submit to the jurisdiction of the United States District Court for the Central District of California for purposes of any proceeding related to the Order, including my receipt or review of information that has been designated as CONFIDENTIAL.

(Signature)

(Printed Name)